

General Information Letter: Insurance companies may offset Illinois Life and Health Guaranty Association assessments against their Illinois income tax liability.

October 21, 1998

Dear:

This is in response to your letter dated July 28, 1998, in which you request a letter ruling. I apologize for the delay in responding. The nature of your letter and the information you have provided require that we respond with a General Information Letter which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 86 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter you have stated the following:

With the re-enactment of the Illinois Privilege Tax, and the abolishment of the Life Valuation Fee, we find that clarification is needed as to the treatment of the Illinois Life and Health Guaranty Association credits previously available. xxxxxxxx xxxx xxxxxxxxxxxx xxxxxxxx (xxxxxx) - xxxx #xxxxxx and it's subsidiary xxxx xxxxxxxxxxxx xxxxxxxx xx xxxxxxxxxxxx -- xxxx #xxxxxx are both Illinois domiciled companies, and in prior years had been able to use these credits to reduce the Life Valuation Fee.

Questioning if we should expense the credits we currently have, I spoke with xxxxxxxx xxxxxxxx of the Illinois Department of Insurance, who thought the credits might be used on the IL-1120. Not able to provide specifics, she referred me to the Illinois Department of Revenue hotline number. There I spoke with xxxxxx of the Business Services Division, and again mention was made of a company using these credits as a deduction to Illinois Income Tax. It was suggested that the deduction be taken on Line 5f of Form IL 1120, including a copy of the tax offset notice received from ILHIGA. Since these individuals could not provide specific Illinois Tax Code referring to this credit, and instructions for Line 5f of Form IL-1120 do not specifically allow for this subtraction, I have been further referred to Illinois Department of Revenue -- Legal Division for a more definitive response.

Response

The Illinois Income Tax Act makes no provision regarding Illinois Life and Health Guaranty Association assessments. However, Section 531.13 of the Illinois Life and Health Guaranty Association Law (215 ILCS 5/531.13) provides:

in any one calendar year in which the total of such assessments exceeds \$3,000,000, the amount in excess of \$3,000,000 shall be subject to a tax offset to the extent of 20% of the amount of such assessment for each of the five calendar years following the year in which such assessment was paid and each member insurer may offset the proportionate amount of such excess paid by the insurer against its liabilities for the tax imposed by subsections (a) and (b) of Section 201 of the "Illinois Income Tax Act" . . .

This offset is treated as a credit against the Illinois income tax liability of the taxpayer claiming the offset, rather than as a deduction. The proper place for claiming the offset on the Form IL-1120 is on Line 4a of Part V. See the specific instructions for Line 4a of Part V for more details.

As stated above, this is a general information letter which does not constitute a statement of policy that applies, interprets or prescribes the tax laws, and it is not binding on the Department. If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Sincerely,

Paul S. Caselton
Associate Chief Counsel -- Income Tax